

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 20 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ISAIAS SANDOVAL CADENA;
AMALIA VICENTE FRANCO;
MARIANA SANDOVAL VICENTE,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74352

Agency Nos. A74-428-696
A74-428-697
A74-428-698

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted December 7, 2005
Portland, Oregon

Before: BROWNING, D.W. NELSON, and O'SCANNLAIN, Circuit Judges.

Petitioners seek review of the Board of Immigration Appeals's (BIA's)
decision that they are statutorily ineligible for suspension of deportation despite

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

their claim that they were denied due process by their previous attorney's ineffective assistance of counsel. The United States argues this court has no jurisdiction to review.

We determine our own jurisdiction *de novo*. *Luu-Le v. INS*, 224 F.3d 911, 914 (9th Cir. 2000).

Under INA § 242(a), 8 U.S.C. § 1252(a) (2005), we have jurisdiction to review only “final orders” of deportation or exclusion. The same was true under that section's predecessor, INA § 106(a). *See* 8 U.S.C. § 1105a(a) (1996), *repealed by* Pub. L. No. 104-208, 110 Stat. 3009-546 (Sept. 30, 1996). The BIA's order of October 12, 2004 administratively closing petitioners' proceedings is not a final order. Instead, it simply removed the case from the BIA's docket, suspending proceedings pending receipt of a request to reinitiate by either party. *See Matter of Gutierrez-Lopez*, 21 I. & N. Dec. 479, 480 (BIA 1996). Accordingly, this court has no jurisdiction to review petitioners' due process claim.

DISMISSED.